

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 23-CR-255(HG)
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-against- : United States Courthouse
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JIAN AI CHEN, : Monday, February 26, 2024
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Defendant. : 11:00 a.m.
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TRANSCRIPT OF CRIMINAL CAUSE FOR GUILTY PLEA
BEFORE THE HONORABLE HECTOR GONZALEZ
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: UNITED STATES ATTORNEY'S OFFICE
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: MIRIAM GLASER DAUERMAN, ESQ.
Assistant United States Attorney

For the Defendant: VARGHESE & ASSOCIATES, P.C.
Attorneys for the Defendant -
Jian Ai Chen
2 Wall Street
New York, New York 10005
BY: VINOO P. VARGHESE, ESQ.

Wei Mou, Chinese language interpreter

Court Reporter: Anthony D. Frisolone, FAPR, RDR, CRR, CRI
Official Court Reporter
Telephone: (718) 613-2487
Facsimile: (718) 613-2694
E-mail: Anthony_Frisolone@nyed.uscourts.gov

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1 have you had an opportunity to discuss with your attorney
2 the indictment in this case? That's the document that has
3 the charges against you.

4 THE DEFENDANT: Yes.

5 THE COURT: Now, let me ask the Government.

6 I understand from reviewing the proposed plea
7 agreement that the defendant intends to plead guilty to
8 Counts One and Two of the indictment which, I believe, those
9 are the only counts against the defendant in the indictment.

10 MS. GLASER DAUERMANN: That's correct, your Honor.

11 THE COURT: So she's pleading to the entire
12 indictment?

13 MS. GLASER DAUERMANN: Yes.

14 THE COURT: And can you summarize the two counts
15 that she'll be pleading guilty to and the elements.

16 And, Ms. Chen, I'm asking the Government to
17 summarize the charges that you'll be pleading guilty to and
18 I want you to listen closely. And if you have any questions
19 about that, I want you to let me know.

20 MS. GLASER DAUERMANN: Yes, your Honor.

21 The two counts are conspiracy to commit healthcare
22 fraud and conspiracy to pay and receive kickbacks. The
23 defendant was part of a conspiracy -- the defendant was an
24 owner-in-fact, although not on paper, of two pharmacies in
25 Brooklyn. And, at those pharmacies, there was a conspiracy

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1 among the owners, both in fact and on paper, to submit
2 claims to Medicare and Medicaid for medications that were
3 either not dispensed at all or that were dispensed in regard
4 to kickbacks and bribes. Some of those kickbacks were paid
5 by the defendant and her co-conspirators to individual
6 beneficiaries in order to induce them to become customers of
7 the pharmacy. Others were paid to individual physicians
8 including, as alleged in the indictment, a physician named
9 Dr. John Yu. The defendant and her co-conspirators paid
10 Dr. Yu to prescribe medications that would then be sent to
11 the pharmacy to be filled. And that summarizes the
12 indictment.

13 THE COURT: And, Ms. Chen, do you understand what
14 the Government has just said are the charges that you'll be
15 pleading guilty to today?

16 THE DEFENDANT: Understand.

17 THE COURT: And let me ask the Government,
18 Ms. Glaser Dauermann, when you say owner-in-fact, what do
19 you mean by that?

20 MS. GLASER DAUERMAN: I mean that although she
21 was not an owner on the paperwork of the pharmacy, she
22 received an equal share of the proceeds of the pharmacy with
23 other individuals who were, in fact, owners of the pharmacy.

24 THE COURT: And Ms. Chen, is that your
25 understanding of how the business worked with respect to

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1 your relationship to the business?

2 MR. VARGHESE: Judge, may I have a moment?

3 THE COURT: Yes.

4 (A brief pause in the proceedings was held.)

5 MR. VARGHESE: So, Judge, I don't believe this
6 will affect the plea in any way, but Ms. Chen and her -- as
7 conveyed to me through her nephew -- did have, which I did
8 forward on to Ms. Glaser Dauermann -- did have a -- they
9 take some issue with the idea that she was an owner-in-fact.

10 In her view, she was there on the ground, she
11 wasn't an owner-in-fact, but she did receive the benefits of
12 the proceed. She was involved and she committed a crime,
13 and that money that was received to her was given to her
14 ex-husband which then helped pay for expenses with her
15 children.

16 So that's, you know, I had to -- there was some
17 initial resistance of understanding that, you know, while
18 she didn't get the money directly, she did benefit from the
19 benefit that came -- that went to her children. So there is
20 an issue with the term "owner-in-fact," and she was not an
21 owner on, you know, she, you know, said she was not an owner
22 of the pharmacy and it's unclear to me and, you know,
23 whether she received an equal amount. That I cannot say.

24 THE COURT: Regardless of that,
25 Ms. Glaser Dauermann, I don't believe that ownership is an

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1 element of the offense. So the fact that whether she was an
2 owner-in-fact, an owner de jure, or receiving payments or
3 benefits from the scheme. That is ultimately what the
4 critical element here, not whether she has a business
5 ownership stake.

6 Is that the Government's has view as well?

7 MS. GLASER DAUERMANN: That's correct, your Honor.

8 If this case were to go to trial, the Government
9 would prove that the defendant was receiving a financial
10 benefit from her participation in the conspiracy, and that
11 she was one of the individuals in the conspiracy who was
12 kind of planning out how the conspiracy would be implemented
13 at the pharmacy.

14 THE COURT: Mr. Varghese, do you see it any
15 differently? The question of the nature of her relationship
16 to the business is not an element of either of the charged
17 counts. What is critical is that she received some benefit
18 from those conspiracies.

19 MR. VARGHESE: That's unequivocal. She received
20 benefits that went to benefit her family. I think she
21 would -- we would -- we have a disagreement about the
22 characterization of her role, which I had mentioned earlier,
23 that, certainly, we are going to argue that she not as
24 culpable as the owners who were actual pharmacists. She
25 doesn't -- she's not on their level, you know, educationally

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1 and she was the one out in the street, she was there
2 recruiting people to work. So she was a necessary cog in
3 the conspiracy. But, you know, she was not -- I think from
4 her perspective, it's not an element of the crime, but she
5 would object to the labeling of her as an owner.

6 THE COURT: And Ms. Chen, your attorney has given
7 a description of your role in the charged offenses, is that
8 your understanding? What your attorney described, is that
9 your understanding of what you'll be pleading guilty to
10 today?

11 THE DEFENDANT: Yes.

12 THE COURT: And, Mr. Varghese, based on your
13 interactions with your client, do you believe that she
14 understands the nature of the charges that she'll be
15 pleading guilty to?

16 MR. VARGHESE: I do, your Honor.

17 The issue of the benefit was something that was
18 back and forth with the nephew a little because they were
19 adamant that they weren't owners. I said that that's, as
20 part of the conspiracy, that's not an element the Government
21 she had needs to prove but that she was -- she had
22 acknowledged her role in the conspiracy of going out and
23 recruiting people on the street and that money and the
24 benefit she ultimately received, if not directly paid to
25 her, but paid to her husband or ex-husband was for the

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1 benefit of her children.

2 THE COURT: And how old are the children?

3 MR. VARGHESE: They're teenagers. I believe one
4 is special needs that I'm aware of. I don't recall the
5 exact ages. I can ask, Judge.

6 THE COURT: Yes.

7 MR. VARGHESE: So she has a 23-year-old son and,
8 again, obviously the dates go back more than a decade, who
9 is in school, medical school, I believe. And then the
10 20-year-old daughter, and that's who I was referring to who
11 has had a series of psychiatric issues. As I used the term
12 "special needs," I should have been a little more specific,
13 mental health issues.

14 THE COURT: All right. Ms. Glaser Dauermann, are
15 the victims in this case, is it more than Medicare and
16 Medicaid?

17 MS. GLASER DAUERMANN: No, your Honor.

18 THE COURT: And through whatever appropriate
19 channels, they've been notified of the plea as the victims
20 in this case?

21 MS. GLASER DAUERMANN: Yes, your Honor. And the
22 case agent is a representative of HHS OIG is here today.

23 THE COURT: Ms. Chen, what I'm going to go through
24 now are a series of rights that you'll be giving up if I
25 accept your plea of guilty. And I need to be confident that